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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,072	02/27/2002	Laurie DeLeve	13761-7065	1401

7590 06/22/2004

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EXAMINER

SHARAREH, SHAHNAM J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/086,072

Applicant(s)

DELEVE, LAURIE

Examiner

Shahnam Sharareh

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☒ Newly proposed or amended claim(s) 4-17 and 20 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 4-19.

Claim(s) rejected: 1-3, 18-19.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


RUSSELL TRAVERS
PRIMARY EXAMINER

Continuation of 2. NOTE: the newly added claim and the amended claims have modified the scope of the claimed invention.

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons of record. With respect to the prior art rejection of record over Upadhyia in view of Kottirsch, Applicant argues that the disease studied by Upadhyia is not the same as Sinusoidal Obstruction Syndrome (SOS), chemotherapy or radiation-induced liver disease. Contrary to Applicant's arguments Upadhyia suggests the potential use of MMP in treating SOS. SOS is viewed by the Examiner as a syndrome synonymous to venoocclusive liver disease which as described by specification involves morphological changes in sinusoidal endothelial fenestration and failure of sinusoidal endothelial barrier (see instant specification at page 4, 3rd and 4th para.). As admitted in the specification, at page 4, 4th para, the morphological changes in SOS is the same as those occur in cold preservation injuries. Upadhyia clearly set forth potential uses of MMP in preserving sinusoidal endothelial lining in cold preservation injuries. Therefore, Upadhyia describes a therapeutic model for SOS. Further, Applicant's arguments about the shortcomings of the individual references is not found to be persuasive, because the rejection is based on the combined teachings of the references. The combined teachings of the references meet all elements of the rejected claims. Accordingly, the rejection is maintained.